THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.25604 of 2005

Dated 23-12-2005

Between:

Pochampally Handloom Weavers

Co-operative Society Limited.

.. **PETITIONER**

AND

The Labour Court-III, Hyderabad and another.

.. RESPONDENTS

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ORDER

This writ petition is filed challenging the order, dated 26-11-2005, passed by the Labour Court-III, Hyderabad, in I.A.No.96 of 2005 in M.P.No.11 of 1999.

The second respondent filed M.P.No.11 of 1999 under Section 33-C (2) of the Industrial Dispute Act, against the petitioner claiming certain benefits. The Labour Court passed an ex-parte order on 19-04-2000. The petitioner filed an application to set aside the ex-parte order. Though it has been filed in the year 2000, it came to be numbered as I.A.No.96 of 2005. Ultimately, the Labour Court passed an order on 26-10-2005 setting aside the ex-parte order dated 19-04-2000 subject to the condition that the petitioner shall pay a sum of R.500/- towards costs and file the counter-affidavit in the main case. The amount of Rs.500/- was paid within time. The petitioner states that the junior counsel on the record was under impression that the counter affidavit, which was there in that file, was already presented to the Labour Court and thereby did not take further steps. On finding that the direction as to the filing of the counter-affidavit is not complied with, the Labour Court passed an order dated 10-11-2005 dismissing I.A.No.96 of 2005.

On the next day itself, the petitioner filed an application being S.R.No.2988 of 2005 enclosing the copy of the counter and pleading that the failure to file it, one day earlier, was on account of inadvertence. The Labour Court rejected the application by holding that it has become *funtus officio*. The petitioner challenges the order passed by the Labour Court.

The second respondent filed counter affidavit narrating the facts that led to passing of the order in the main case on 19-04-2000, the subsequent orders on 26-10-2005 and 10-11-2005 and the impugned order. It is pleaded that the writ petitioner has been dragging proceedings on one pretext or the other and that the second respondent is put to irreparable loss.

Heard the learned counsel for the petitioner, the learned Government Pleader for Labour and the learned counsel for the second respondent.

The application filed by the writ petitioner for setting aside the ex-parte order in M.P.No.11 of 1999 was allowed on 26-10-2005 by imposing two conditions. The petitioner complied with the first condition, viz., payment of R.500/- to the second respondent. The second condition was about filing of counter affidavit. On the assumption that the counter-affidavit was filed along with I.A.No.96 of 2005 itself, the petitioner did not take further steps. The Labour Court, however, passed an order dated 10-11-2005 observing that this condition was not complied with and accordingly dismissed I.A.No.96 of 2005. On the next day itself, the present application was filed narrating the circumstances under which the copy of the counter affidavit could not be filed. In fact, the counter affidavit was enclosed with the petition itself. The only ground, on which the Labour Court dismissed the I.A., is that it has become *functus officio*. The same does not appear to be correct.

It is only when an award is passed in I.D., the Labour Court becomes *functus officio*, after expiry of 30 years from the date of publication thereof. In other matters, it continues to hold the jurisdiction. In fact, the Labour Court passed an order in I.A.No.96 of 2005 on 26-10-2005 setting aside the order dated 19-04-2000. This itself shows that the Labour Court did not treat itself as a *functus officio,* after lapse of five years, from the date of disposal of the M.P. Hence, the view taken by the Labour Court cannot be sustained. The order under challenge is accordingly set aside. Consequently, the order dated 10-11-2005 is set aside.

To avoid further delay in the matter, it is directed that the counter affidavit filed by the petitioner, along with the instant applicant, be taken on record. As a result, the order passed in I.A.No.96 of 2005, dated 26-10-2005, shall be treated as having been complied with. The Labour Court shall proceed to decide M.P.No.11 of 1999, and dispose of the same, within a period of six weeks from the date of receipt of a copy of this order. In case, there is any default or non-cooperation on the part of the writ petitioner, it shall be open to the Labour Court to pass appropriate orders, without waiting for the response of the petitioner.

Accordingly, the writ petition is disposed of. No order as to costs.

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23-12-2005

Note:

Issue C.C. in three days.

(B/o)

Prv